

APPEAL NO. 020767
FILED MAY 13, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on March 8, 2002. The hearing officer resolved the disputed issues by deciding that the respondent (claimant) sustained a compensable repetitive trauma injury; that the date of injury was _____; and that the claimant timely notified his employer of the injury. The appellant (self-insured) appealed. No response was received from the claimant.

DECISION

The hearing officer's decision is affirmed.

Section 401.011(34) provides that an occupational disease includes a repetitive trauma injury, which is defined in Section 401.011(36) as "damage or harm to the physical structure of the body occurring as the result of repetitious, physically traumatic activities that occur over time and arise out of and in the course and scope of employment." Section 408.007 provides that the date of injury for an occupational disease is the date on which the employee knew or should have known that the disease may be related to the employment. Section 409.001(a) provides that, for an occupational disease, notice of injury must be given to the employer not later than the 30th day after the date on which the employee knew or should have known that the injury may be related to the employment. The claimant had the burden to prove that he sustained a repetitive trauma injury during the course and scope of his employment. Davis v. Employers Insurance of Wausau, 694 S.W.2d 105 (Tex. Civ. App.-Houston [14th Dist.] 1985, writ ref'd n.r.e.). The claimant also had the burden to prove that he gave timely notice of injury to the employer. Conflicting evidence was presented on the disputed issues. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the trier of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. The claimant's hand position while typing, which was demonstrated at the CCH, was evidence the hearing officer could consider. The weight and credibility to be given to the claimant's testimony and the medical opinion was for the hearing officer to determine. We conclude that the hearing officer's determinations on the disputed issues are supported by sufficient evidence and that they are not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The hearing officer's decision and order are affirmed.

The true corporate name of the self-insured is, **a self-insured governmental entity**, and the name and address of its registered agent for service of process is

**CITY ATTORNEY
(ADDRESS)
(CITY), TEXAS (ZIP CODE).**

Robert W. Potts
Appeals Judge

CONCUR:

Michael B. McShane
Appeals Judge

Roy L. Warren
Appeals Judge